

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Hiroyuki KISHI

Application No.: 09/986,026

Group Art Unit: 3694

Filed: November 7, 2001

Examiner: Kirsten Sachwitz APPLE

For: METHOD, PROGRAM AND APPARATUS FOR COLLECTING PURCHASE
INFORMATION USING NETWORK

NEW CORRECTED/AMENDED BRIEF IN SUPPORT OF APPEAL

Mail Stop Appeal Brief-Patents

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

This is new corrected and amended appeal brief in response to the Notice of Non-Compliant Appeal Brief mailed August 8, 2008 setting response due date of September 8, 2008. This New Corrected/Amended Brief in Support of Appeal overcomes/replies all of/to the requirements set forth in the Notice and is timely filed on September 8, 2008, entry of which is requested.

If any further fees are required in connection with this filing, please charge our Deposit Account No. 19-3935.

I. REAL PARTY IN INTEREST

The real party in interest is Fujitsu Limited, Kawasaki, Japan, the assignee of the present above-identified pending US patent application.

II. RELATED APPEALS AND INTERFERENCES

Appellant, Appellant's legal representative, and the assignee do not know of any prior or pending appeals, interferences or judicial proceedings, which may be related to, directly affect or be directly affected by, or have a bearing on, the Board's decision in this appeal.

III. STATUS OF CLAIMS

Claims 1-4, 6-9, 11-12, 16, 17, 20 and 21 are rejected.

Claims 5, 10, 13-15, and 18-19 are cancelled.

Rejection of claims 1-4, 6-9, 11-12, 16, 17, 20 and 21 is appealed.

IV. STATUS OF AMENDMENTS

No amendment was filed after the final office action of February 26, 2008.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Claims 1-4, 6-9, 11-12, 16, 17, 20 and 21 are being appealed. The appealed independent claims are 1, 7, 11, 16, 17, 20 and 21. The references to the specification and drawings are for purposes of summarizing the claims according to 37 CFR 41.37, and the claims are not limited to the specific example embodiments referred to in the specification and the drawings.

A. Independent claims 1 and 7

Independent claims 1 (method type claim) and 7 (computer readable medium type claim), require substantially same limitations and references to the specification and the drawings apply to both claims 1 and 7, and the concise explanation refers separately to the specification and to the drawings for each independent claim 1 and 7.

CLAIM 1:

Method claim 1 is directed to using a server (FIG. 1, (1)) to collect information on a purchaser (FIG. 1, namely user terminal 2) of one or more commodities.

Claim 1 recites "first sales information" (FIG. 1, (39), (17), and FIGS. 3, 6), and "second sales information" (FIG. 1 (18), FIG. 7). See page 10, lines 10-14. Retail seller 3 transmits "first sales information" 39 of a first commodity to the server 1, which stores the "first sales information" in a first storing part, namely the original sales information database 17. See page 13, line 12 to page 14, line 26; and page 15, lines 13-24.

The purchaser via the user terminal 2 transmits "purchase information" to the server 1. The "purchase information" includes personal information of the purchaser of a second commodity and includes the "second sales information" for the second commodity. See FIG. 11, purchaser enters purchase information; and page 15, lines 10-12; FIG. 1, 18; FIG. 7; and page 17, line 13 to page 22, line 4.

Based on the retail sellers, times and places identified by the "first sales information" and the "second sales information," it is determined whether the "second sales information" that is included in the received purchase information, is stored in said first storing part, namely stored in the original sales information database 17 received from the retail seller 3. If the "second sales information" from the purchase information is stored in the first storing part, namely stored in the original sales information database 17 received from the retail seller 3, then the purchase information is stored as "valid" in a second storing part, namely in the purchase information

database (FIG. 1, (18), FIG. 7). See FIG. 13 (steps 502-503) and page 22, line 11 to page 23, line 9.

Furthermore, when the "second sales information" of the received purchase information, is not stored in said first storing part, namely not stored in the original sales information database 17 received from the retail seller 3, the following operations are performed:

(1) sales information containing "first information" and "second information" are extracted from said first storing part, namely extracted from the original sales information database 17 received from the retail seller 3. The extracted "second information" from the first storing part, namely from the original sales information database 17, is a range of deal numbers between a minimum deal number to a maximum deal number. See FIG. 13, step 507 and page 23, lines 10-21;

(2) then if "second information of the purchase information" has a deal number within the range of deal numbers extracted from said first storing part, namely extracted from the original sales information database 17 received from the retail seller 3, then the purchase information is stored as "invalid" in the second storing part, namely in the purchase information database (FIG. 1, (18), FIG. 7). See FIG. 13 (steps 508, 506) and page 24, lines 6-17.

(3) then if "second information of the purchase information" is not within the range of deal numbers extracted from said first storing part, namely extracted from the original sales information database 17 received from the retailer seller 3, then the purchase information is stored as "undefined" in the second storing part, namely in the purchase information database (FIG. 1, (18), FIG. 7). See FIG. 13 (steps 508, 509) and page 23, line 22 to page 24, line 5.

CLAIM 7:

Computer readable medium claim 7 is directed to using a server (FIG. 1, (1)) to collect information on a purchaser (FIG. 1, namely user terminal 2) of one or more commodities.

Claim 7 recites "first sales information" (FIG. 1, (39), (17), and FIGS. 3, 6), and "second sales information" (FIG. 1 (18), FIG. 7). See page 10, lines 10-14. Retail seller 3 transmits "first sales information" 39 of a first commodity to the server 1, which stores the "first sales information" in a first storing part, namely the original sales information database 17. See page 13, line 12 to page 14, line 26; and page 15, lines 13-24.

The purchaser via the user terminal 2 transmits "purchase information" to the server 1. The "purchase information" includes personal information of the purchaser of a second commodity and includes the "second sales information" for the second commodity. See FIG. 11, purchaser enters purchase information; and page 15, lines 10-12; FIG. 1, 18; FIG. 7; and page 17, line 13 to page 22, line 4.

Based on the retail sellers, times and places identified by the "first sales information" and the "second sales information," it is determined whether the "second sales information" that is included in the received purchase information, is stored in said first storing part, namely stored in the original sales information database 17 received from the retail seller 3. If the "second sales information" from the purchase information is stored in the first storing part, namely stored in the original sales information database 17 received from the retail seller 3, then the purchase information is stored as "valid" in a second storing part, namely in the purchase information database (FIG. 1, (18), FIG. 7). See FIG. 13 (steps 502-503) and page 22, line 11 to page 23, line 9.

Furthermore, when the "second sales information" of the received purchase information, is not stored in said first storing part, namely not stored in the original sales information database 17 received from the retail seller 3, the following operations are performed:

(1) sales information containing "first information" and "second information" are extracted from said first storing part, namely extracted from the original sales information database 17 received from the retail seller 3. The extracted "second information" from the first storing part, namely from the original sales information database 17, is a range of deal numbers between a minimum deal number to a maximum deal number. See FIG. 13, step 507 and page 23, lines 10-21;

(2) then if "second information of the purchase information" has a deal number within the range of deal numbers extracted from said first storing part, namely extracted from the original sales information database 17 received from the retail seller 3, then the purchase information is stored as "invalid" in the second storing part, namely in the purchase information database (FIG. 1, (18), FIG. 7). See FIG. 13 (steps 508, 506) and page 24, lines 6-17.

(3) then if "second information of the purchase information" is not within the range of deal numbers extracted from said first storing part, namely extracted from the original sales information database 17 received from the retailer seller 3, then the purchase information

is stored as "undefined" in the second storing part, namely in the purchase information database (FIG. 1, (18), FIG. 7). See FIG. 13 (steps 508, 509) and page 23, line 22 to page 24, line 5.

B. Independent claims 11, 16 and 17

Independent claims 11 (method type claim), 16 (computer readable medium type claim), and 17 (apparatus type claim) require substantially same limitations and references to the specification and the drawings apply to claims 11, 16 and 17, and the concise explanation refers separately to the specification and to the drawings for each independent claim 11, 16 and 17.

CLAIM 11:

Method claim 11 is directed to collecting information on a purchaser (FIG. 1, namely user terminal 2) of one or more commodities.

Claim 11 recites "first deal identifying information" (FIG. 1, (39), (17), and FIGS. 3, 6), and "second deal identifying information" (FIG. 1 (18), FIG. 7). See page 10, lines 10-14. Retail seller 3 transmits "first deal identifying information" 39 of a first commodity to the server 1, which stores the "first deal identifying information" in a first storing part, namely the original sales information database 17. See page 13, line 12 to page 14, line 26; and page 15, lines 13-24.

The purchaser via the user terminal 2 transmits the "second deal identifying information" for a second commodity and personal information of the purchaser to the server 1. See FIG. 1, (18); FIG. 7; and page 17, line 13 to page 22, line 4.

The "first deal identifying information" (FIGS. 1, 6 (17)) and the "second deal identifying information" (FIG. 1, (18), FIG. 7) - are compared based on the retail sellers, times and places identified by the "first and second deal identifying information" (FIG. 1, (17, 18); FIG. 13, step 503; page 22, line 20 to page 23, line 1).

Then, the following operations are performed:

(1) a range of deal numbers of the second deal identifying information, namely between a minimum deal number of the second deal identifying information to a maximum deal number of the second deal identifying information, are extracted. See FIG. 13, step 507 and page 23, lines 10-21;

(2) storing, when it is judged that the deal number of the second deal identifying information falls within the range of deal numbers, the second deal identifying information, together with an identifier as invalid information, in a second storing part, namely in the purchase information database (FIG. 1, (18); FIG. 7). See FIG. 13 (steps 508, 506) and page 24, lines 6-17.

(3) storing, when it is judged that the deal number of the second deal identifying information does not fall within the range of deal numbers, the second deal identifying information together with an identifier indicating a validity of the information is not identified, namely in the purchase information database (FIG. 1, (18); FIG. 7). See FIG. 13 (steps 508, 509) and page 23, line 22 to page 24, line 5.

CLAIM 16:

Computer readable medium claim 16 is directed to collecting information on a purchaser (FIG. 1, namely user terminal 2) of one or more commodities.

Claim 16 recites "first deal identifying information" (FIG. 1, (39), (17), and FIGS. 3, 6), and "second deal identifying information" (FIG. 1 (18), FIG. 7). See page 10, lines 10-14. Retail seller 3 transmits "first deal identifying information" 39 of a first commodity to the server 1, which stores the "first deal identifying information" in a first storing part, namely the original sales information database 17. See page 13, line 12 to page 14, line 26; and page 15, lines 13-24.

The purchaser via the user terminal 2 transmits the "second deal identifying information" for a second commodity and personal information of the purchaser to the server 1. See FIG. 1, (18); FIG. 7; and page 17, line 13 to page 22, line 4.

The "first deal identifying information" (FIGS. 1, 6 (17)) and the "second deal identifying information" (FIG. 1, (18), FIG. 7) - are compared based on the retail sellers, times and places identified by the "first and second deal identifying information" (FIG. 1, (17, 18); FIG. 13, step 503; page 22, line 20 to page 23, line 1).

Then, the following operations are performed:

(1) a range of deal numbers of the second deal identifying information, namely between a minimum deal number of the second deal identifying information to a maximum deal number of the second deal identifying information, are extracted. See FIG. 13, step 507 and page 23, lines 10-21;

(2) storing, when it is judged that the deal number of the second deal identifying information falls within the range of deal numbers, the second deal identifying information, together with an identifier as invalid information, in a second storing part, namely in the purchase information database (FIG. 1, (18); FIG. 7). See FIG. 13 (steps 508, 506) and page 24, lines 6-17.

(3) storing, when it is judged that the deal number of the second deal identifying information does not fall within the range of deal numbers, the second deal identifying information together with an identifier indicating a validity of the information is not identified, namely in the purchase information database (FIG. 1, (18); FIG. 7). See FIG. 13 (steps 508, 509) and page 23, line 22 to page 24, line 5.

CLAIM 17:

Apparatus claim 17 is directed to collecting information on a purchaser (FIG. 1, namely user terminal 2) of one or more commodities.

Claim 17 recites "first deal identifying information" (FIG. 1, (39), (17), and FIGS. 3, 6), and "second deal identifying information" (FIG. 1 (18), FIG. 7). See page 10, lines 10-14. Retail seller 3 transmits "first deal identifying information" 39 of a first commodity to the server 1, which stores the "first deal identifying information" in a first storing part, namely the original sales information database 17. See page 13, line 12 to page 14, line 26; and page 15, lines 13-24.

The purchaser via the user terminal 2 transmits the "second deal identifying information" for a second commodity and personal information of the purchaser to the server 1. See FIG. 1, (18); FIG. 7; and page 17, line 13 to page 22, line 4.

The "first deal identifying information" (FIGS. 1, 6 (17)) and the "second deal identifying information" (FIG. 1, (18), FIG. 7) - are compared based on the retail sellers, times and places identified by the "first and second deal identifying information" (FIG. 1, (17, 18); FIG. 13, step 503; page 22, line 20 to page 23, line 1).

Then, the following operations are performed:

(1) a range of deal numbers of the second deal identifying information, namely between a minimum deal number of the second deal identifying information to a maximum deal number of the second deal identifying information, are extracted. See FIG. 13, step 507 and page 23, lines 10-21;

(2) storing, when it is judged that the deal number of the second deal identifying information falls within the range of deal numbers, the second deal identifying information, together with an identifier as invalid information, in a second storing part, namely in the purchase information database (FIG. 1, (18); FIG. 7). See FIG. 13 (steps 508, 506) and page 24, lines 6-17.

(3) storing, when it is judged that the deal number of the second deal identifying information does not fall within the range of deal numbers, the second deal identifying information together with an identifier indicating a validity of the information is not identified, namely in the purchase information database (FIG. 1, (18); FIG. 7). See FIG. 13 (steps 508, 509) and page 23, line 22 to page 24, line 5.

C. Independent claim 20

Independent claim 20 is directed to using a computing system of a commodity seller to obtain personal information of an end purchaser (FIG. 1, namely user terminal 2) that has purchased a commodity of the commodity seller at a retailers' point-of-sale (POS) system.

Claim 20 recites "electronic sales transactions corresponding to the commodities that the retailer previously purchased from the commodity seller" (FIG. 1, (39), (17), and FIGS. 3, 6), and "transaction information and personal information of the end purchaser entered at the terminal" of the end-purchaser (FIG. 1 (18), FIG. 7). See page 10, lines 10-14. The computing system of the commodity seller (FIG. 1, (1)), receives the "electronic sales transactions" and the end-purchaser's entered "transaction information and personal information." See page 13, line 12 to page 14, line 26; and page 15, lines 13-24.

Then, the computing system of the commodity seller performs the following operations:

(1) "extracting sales information containing first information of the purchase information from said first storing part upon the second sales information included in the received purchase information not being stored in the first storing part including a range of deal numbers of second information between a minimum deal number of second information to a maximum deal number of second information." So, when the "second sales information" of the received purchase information, is not stored in said first storing part, namely in the original sales information database 17 received from the retail seller 3, sales information containing "first information" and "second information" are extracted from said first storing part, namely extracted from the original sales information database 17 received from the retail seller 3. The extracted "second information" from the first storing part, namely from the original sales information

database 17, is a range of deal numbers between a minimum deal number to a maximum deal number. See FIG. 13, step 507 and page 23, lines 10-21.

(2) "storing the purchase information as invalid purchase information in the second storing part upon second information of the purchase information having a deal number that is within the range of deal numbers between the minimum deal number of second information and the maximum deal number of second information." So if "second information of the purchase information" has a deal number within the range of deal numbers extracted from said first storing part, namely extracted from the original sales information database 17 received from the retail seller 3, then the purchase information is stored as "invalid" in the second storing part, namely in the purchase information database (FIG. 1, (18); FIG. 7). See FIG. 13 (steps 508, 506) and page 24, lines 6-17.

(3) "storing the purchase information as unidentified validity purchase information in the second storing part upon the second information of the purchase information not having a deal number within the range of deal numbers." So if "second information of the purchase information" is not within the range of deal numbers extracted from said first storing part, namely extracted from the original sales information database 17 received from the retailer seller 3, then the purchase information is stored as "undefined" in the second storing part, namely in the purchase information database (FIG. 1, (18); FIG. 7). See FIG. 13 (steps 508, 509) and page 23, line 22 to page 24, line 5.

D. Independent claim 21

Claim 21 is directed to using a retailer's point-of-sale (POS) system (e.g., page 29, lines 1-12).

Claim 21 recites "electronic sales transactions corresponding to the commodities that the retailer previously purchased from the commodity seller" (FIG. 1, (39), (17), and FIGS. 3, 6), and "transaction information and personal information of the end purchaser entered at the terminal" of the end-purchaser (FIG. 1 (18), FIG. 7). See page 10, lines 10-14. The computing system of the commodity seller (FIG. 1, (1)), receives the "electronic sales transactions" and the end-purchaser's entered "transaction information and personal information." See page 13, line 12 to page 14, line 26; and page 15, lines 13-24.

Then, the retailer's point-of-sale (POS) (FIG. 1, (3)) performs "evaluating the data at the computing system of the commodity seller, based on the transaction information received from the end purchaser and a corresponding received electronic sale transaction of the commodity

and based on the data, identifying sales information that has been already used for verifying the purchase information (page 15, lines 13-24, FIG. 6, FIG. 8, step 202, FIG. 13, steps 504, 505, page 22, line 20 to page 23, line 9), storing the end purchaser's personal information and information relating the personal information to information about the commodity purchased by the end purchaser" (e.g., page 29, lines 1-12).

Then, the retailer's point-of-sale (POS) (FIG. 1, (3)) performs the following operations:

(1) "extracting sales information containing first information of the purchase information from said first storing part upon the second sales information included in the received purchase information not being stored in the first storing part including a range of deal numbers of second information between a minimum deal number of second information to a maximum deal number of second information." So, when the "second sales information" of the received purchase information, is not stored in said first storing part, namely in the original sales information database 17 received from the retail seller 3, sales information containing "first information" and "second information" are extracted from said first storing part, namely extracted from the original sales information database 17 received from the retail seller 3. The extracted "second information" from the first storing part, namely from the original sales information database 17, is a range of deal numbers between a minimum deal number to a maximum deal number. See FIG. 13, step 507 and page 23, lines 10-21.

(2) "storing the purchase information as invalid purchase information in the second storing part upon second information of the purchase information having a deal number that is within the range of deal numbers between the minimum deal number of second information and the maximum deal number of second information." So if "second information of the purchase information" has a deal number within the range of deal numbers extracted from said first storing part, namely extracted from the original sales information database 17 received from the retail seller 3, then the purchase information is stored as "invalid" in the second storing part, namely in the purchase information database (FIG. 1, (18); FIG. 7). See FIG. 13 (steps 508, 506) and page 24, lines 6-17.

(3) "storing the purchase information as unidentified validity purchase information in the second storing part upon the second information of the purchase information not having a deal number within the range of deal numbers." So if "second information of the purchase information" is not within the range of deal numbers extracted from said first storing part, namely extracted from the original sales information database 17 received from the retailer seller 3, then the purchase information is stored as "undefined" in the second storing part, namely in the

purchase information database (FIG. 1, (18); FIG. 7). See FIG. 13 (steps 508, 509) and page 23, line 22 to page 24, line 5.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-4, 6-9, 11-12, 16, 17, 20 and 21 are rejected under 35 USC 103(a) as being unpatentable over Quinlan (US Patent No. 6,748,365) in view of Solomon (US Patent No. 6,847,935).

VII. ARGUMENTS

I. A first issue is whether the Office Action has established a prima facie case of obviousness of the independent claims 1, 7, 11, 16, 17, 20 and 21, based upon Quinlan and Solomon.

I.a. A first sub-issue of the first issue is whether the Office Action provides evidence expressly or implicitly which as a whole show that the legal determination sought to be proved (i.e., whether the reference teachings establish a prima facie case of obviousness) is more probable than not by the preponderance of evidence burden-of-proof standard (37 CFR 1.56(b)).

I.b. A second sub-issue of the first issue is whether the Office Action sets forth reasoning in support of a prima facie case of obviousness of the claims based upon Quinlan and Solomon.

Quinlan and Solomon fail to expressly or implicitly disclose to one skilled in the art to be combined and then further modified to provide the claimed:

extracting sales information containing a first information of the purchase information from said first storing part upon the second sales information included in the received purchase information not being stored in the first storing part, including a range of deal numbers of a second information between a minimum deal number of the second information to a maximum deal number of the second information;

storing the purchase information as invalid purchase information in the second storing part upon the second information of the purchase information having a deal number that is within the range of deal numbers between the minimum deal number of the second information and the maximum deal number of the second information ... (e.g., independent claim 1).

A benefit of the invention is to identify invalid submitted purchase information from a user, namely, if the "second sales information" that is included in the received purchase information, is not stored in said first storing part, namely not stored in the original sales information database 17 transmitted by the retailer seller 3, but if the range of deal numbers extracted from said first storing part, namely extracted from the original sales information database 17 transmitted by the retailer seller 3, is within a range of deal numbers from the "second sales information," then since there is no possibility that the original sales information corresponding to the received purchase information has not yet been transmitted by the retailer, the received purchase

information must be “invalid.” In other words, If the purchaser input deal numbers are within range but the sales information do not match, then there is no possibility that the original sales information corresponding to the received purchase information has not yet been transmitted by the retailer (i.e., the original sales information should have been transmitted, if the deal numbers are within range), so the received purchase information must be “invalid.” See FIG. 13 (steps 508, 506) and page 24, lines 6-17. In other words, the invention has a benefit of identifying submissions of purchase information using deal numbers that are within range but without any corresponding original sales information.

Quinlan column 10, lines 6-15, which is relied upon by the Office Action, discusses processing of rebate claims, and in particular discusses “the fulfillment administrator then associates each serial number in the stored data record [transmitted by a customer] with a purchase data record having an identical serial number.” The Office Action alleges Quinlan’s serial number can be similar to the claimed “second information,” namely a deal number. However, Quinlan is silent on the claimed extraction of a range of deal numbers from the first storing part, namely extracted from the original sales information database 17. Furthermore, the Office Action page 4 acknowledges that Quinlan does not disclose the claimed determining status of purchase information input by a purchaser, namely whether the purchase information is “valid” (e.g., independent claims 1, 7), “invalid” (e.g., independent claims 1, 7, 11, 16, 20, 21), and “unidentified validity” (e.g., independent claims 1, 7, 11, 16, 20, 21). Quinlan FIG. 2, step 150, discusses validating a rebate claim based upon matching UPC codes, correct purchased item, qualifying period, price range, and then checking the validated claim for fraud by checking the name and address of the consumer to known databases. However, Quinlan fails to disclose expressly or implicitly the claimed determining status of purchaser input purchase information based upon a range of deal numbers, providing a benefit of identifying submissions of purchase information using deal numbers that are within range but without any corresponding original sales information.

So the Office Action relies upon Solomon column 5, lines 24-49 and column 6, lines 38-45. Solomon discusses processing a rebate of a product, and, in particular, in column 5, lines 24-49 discusses:

... rebate processing center 12 calculates and maintains a breakage rate field. Breakage refers to any event that prevents a rebate transaction from being completed, for example, denying based on bad verification materials, such as receipts or UPC symbols, denying based upon improper purchases dates or purchase price, or slippage from checks issued but not cashed.

Similar to Quinlan, Solomon only discusses storing a start date, an end date and a disbursement option (in FIG. 3, columns 6, 7, and 11, respectively), which is a rebate qualifying period, but is also silent on the claimed determining status of the purchaser input purchase information based upon a range of deal numbers. The Office Action, for example, page 4, last paragraph, and Response to Arguments page 6, allege that because Solomon and Quinlan discuss validating a rebate claim based upon a date range as the rebate qualifying period and Quinlan's "substituting the maximum or minimum price if the purchase price is out of range," then the claimed use of range of deal numbers to invalidate a purchaser input purchase information would be obvious.

However, both Quinlan and Solomon fail to expressly discuss use of a range of deal numbers. Further, Quinlan's column 10, lines 21-25 discussion of max. or min. price is in connection with processing variable rebate offers, but not in connection with validating and fraud checking the rebate claim. So the issue becomes whether Quinlan and Solomon implicitly disclose to one skilled in the art to be combined and then further modify Quinlan's and/or Solomon's rebate claim validation to use a range of deal numbers, namely when the "second sales information" of the received purchase information, is not stored in said first storing part, namely not stored in the original sales information database 17 received from the retail seller 3, the following operations are performed:

(1) sales information containing "first information" and "second information" are extracted from said first storing part, namely extracted from the original sales information database 17 received from the retail seller 3. The extracted "second information" from the first storing part, namely from the original sales information database 17, is a range of deal numbers between a minimum deal number to a maximum deal number. See FIG. 13, step 507 and page 23, lines 10-21;

(2) then if "second information of the purchase information" has a deal number within the range of deal numbers extracted from said first storing part, namely extracted from the original sales information database 17 received from the retail seller 3, then the purchase information is stored as "invalid" in the second storing part, namely stored in the

purchase information database (FIG. 1, (17), FIG. 7). See FIG. 13 (steps 508, 506) and page 24, lines 6-17.

It is submitted that Solomon and Quinlan both fail to implicitly disclose this feature, because both Quinlan's serial no. matching and Solomon's process concerning breakage (column 5, lines 24-49), based upon any range of serial nos. would store received purchase information, which contains a deal number as second information within a range from minimum to maximum, as "valid" purchase information, because Solomon and Quinlan only discuss identifying the rebate claims as valid upon a match between a purchaser input serial no. and a serial no. from the point-of-sale (POS). However, Quinlan and Solomon fail to serve as evidence by the preponderance of evidence burden-of-proof standard (37 CFR 1.56(b)) for establishing a prima facie case of obviousness, namely it is not more probable that one skilled in the art would further modify Quinlan and Solomon rebate claim operations of identifying input purchase information as **valid** upon determining a serial no. match, to provide the claimed identifying received purchase information, which contains a deal number as second information within a range from minimum to maximum, as **"invalid"** purchase information. In other words, according to independent claims 1, 7, 11, 16, 17, 20 and 21, when the "second sales information" of the received purchase information, **is not stored in said first storing part, namely not in the original sales information database 17 received from the retail seller 3** ... then if "second information of the purchase information" has **a deal number within the range of deal numbers extracted from said first storing part, namely extracted from the original sales information database 17 received from the retail seller 3, then the purchase information is stored as "invalid"** in the second storing part, namely in the purchase information database (FIG. 1, (17), FIG. 7). See FIG. 13 (steps 508, 506) and page 24, lines 6-17. In other words, the language of the claims provides:

extracting sales information containing a first information of the purchase information from said first storing part upon the second sales information included in the received purchase information not being stored in the first storing part, including a range of deal numbers of a second information between a minimum deal number of the second information to a maximum deal number of the second information;

storing the purchase information as invalid purchase information in the second storing part upon the second information of the purchase information having a deal number that is within the range of deal numbers between the minimum deal number of the second information and the maximum deal number of the second

information ... (e.g., independent claim 1).

The Office Action reasoning does not support a prima facie case of obviousness of the claims based upon Quinlan and Solomon. While the Office Action page 5 provides that one of ordinary skill in the art would have been motivated to modify the references in order to track breakage rate, the Office Action does not set forth any reasoning why or how Quinlan and Solomon would provide motivation to achieve a benefit of identifying submissions of purchase information using deal numbers that are within range but without any corresponding original sales information and to achieve such a benefit based upon the language of the claims "storing the purchase information as **invalid purchase information** in the second storing part **upon the second information of the purchase information having a deal number that is within the range of deal numbers** between the minimum deal number of the second information and the maximum deal number of the second information" (e.g., claim 1). If the purchaser input deal numbers are within range but the sales information do not match, then there is no possibility that the original sales information corresponding to the received purchase information has not yet been transmitted by the retailer (i.e., the original sales information should have been transmitted, if the deal numbers are within range), so the received purchase information must be "invalid."

The obviousness rejection of independent claims cannot be sustained, because the Office Action does not provide evidence expressly or implicitly which as a whole show that the legal determination sought to be proved (i.e., whether the reference teachings establish a prima facie case of obviousness) is more probable than not by the preponderance of evidence burden-of-proof standard (37 CFR 1.56(b)) and reversal of the rejection of the appealed independent claims is requested.

Therefore, it is submitted that claims 1, 7, 11, 16, 17, 20 and 21 as well as claims 2, 3, 6, 8, 9 and 12, which depend therefrom, are patentably distinguishable over the prior art of record.

Appellant submits that pending appealed claims patentably distinguish over the relied upon prior art. Reversal of the Examiner's rejections is requested.

Respectfully submitted,
STAAS & HALSEY LLP

/Mehdi D. Sheikerz/

Date: September 8, 2008 By: _____

Mehdi D. Sheikerz
Registration No. 41,307

1201 New York Ave, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

VIII. CLAIMS APPENDIX

1. (Previously presented) A purchase information collecting method for collecting information on a purchaser of one or more commodities using a network with a server apparatus, the method comprising:

- receiving a first sales information, which identifies a deal of a first commodity, from a retail seller of the first commodity, wherein the first sales information is generated by the retail seller of the first commodity and identifies the retail seller of the first commodity and identifies a time and place at which the first commodity was sold by the retail seller of the first commodity;

- storing the received first sales information in a first storing part;

- receiving purchase information, which comprises personal information of a purchaser of a second commodity and a second sales information, from the purchaser of the second commodity, where the second sales information is generated by a retail seller of the second commodity when the second commodity is sold, and where the second sales information identifies the retail seller of the second commodity and identifies a time and place at which the second commodity was sold by the retail seller of the second commodity;

- based on the retail sellers, times and places identified by the first sales information and the second sales information, determining whether the second sales information included in the received purchase information is stored in said first storing part;

- storing the received purchase information as valid purchase information in a second storing part upon the second sales information being stored in the first storing part;

- extracting sales information containing a first information of the purchase information from said first storing part upon the second sales information included in the received purchase information not being stored in the first storing part, including a range of deal numbers of a second information between a minimum deal number of the second information to a maximum deal number of the second information;

- storing the purchase information as invalid purchase information in the second storing part upon the second information of the purchase information having a deal number that is within the range of deal numbers between the minimum deal number of the second information and the maximum deal number of the second information; and

- storing the purchase information as unidentified validity purchase information in the second storing part upon the second information of the purchase information not having a deal number within the range of deal numbers.

2. (Previously Presented) A purchase information collecting method according to claim 1, wherein the purchase information further comprises:
the first information for identifying the seller of the second commodity;
the second information for identifying a deal made by the seller of the second commodity;
and
a third information for identifying the second commodity.

3. (Previously Presented) A purchase information collecting method according to claim 2, wherein the second information included in the purchase information indicates a time order of deals made by the seller of the second commodity identified with the first information.

4. (Previously Presented) A purchase information collecting method according to claim 3, wherein the second information included in the purchase information further comprises information indicating a date of the deal.

5. (Cancelled)

6. (Previously Presented) A purchase information collecting method according to claim 1, further comprising transmitting to a computer operated by the purchaser a screen data that makes a browser program executed in the computer display a screen containing an input area for inputting the purchase information and an item for inputting an instruction to submit the purchase information in the input area to said server apparatus.

7. (Previously presented) A purchase information collecting program causing a computer capable of communicating with other computers to perform processing comprising:
receiving a first sales information, which identifies a deal of a first commodity, from a retail seller of the first commodity, wherein the first sales information is generated by the retail seller of the first commodity and identifies the retail seller of the first commodity and identifies a time and place at which the first commodity was sold by the retail seller of the first commodity;
storing the received first sales information in a first storing part;
receiving purchase information, which comprises personal information of a purchaser of a second commodity and a second sales information, from the purchaser of the second

commodity, where the second sales information is generated by a retail seller of the second commodity when the second commodity is sold, and where the second sales information identifies the retail seller of the second commodity and identifies a time and place at which the second commodity was sold by the retail seller of the second commodity;

storing the received purchase information as valid purchase information in a second storing part when, based on the retail sellers, times and places identified by the first sales information and the second sales information, the second sales information included in the received purchase information is stored in said first storing part;

extracting sales information containing a first information of the purchase information from said first storing part upon the second sales information included in the received purchase information not being stored in the first storing part, including a range of deal numbers of a second information between a minimum deal number of the second information to a maximum deal number of the second information;

storing the purchase information as invalid purchase information in the second storing part upon the second information of the purchase information having a deal number that is within the range of deal numbers between the minimum deal number of the second information and the maximum deal number of the second information; and

storing the purchase information as unidentified validity purchase information in the second storing part upon the second information of the purchase information not having a deal number within the range of deal numbers.

8. (Previously Presented) A purchase information collecting program according to claim 7, wherein the purchase information further comprises:

the first information for identifying the seller of the second commodity;

the second information for identifying a deal made by the seller of the second commodity;

and

a third information for identifying the second commodity.

9. (Previously Presented) A purchase information collecting program according to claim 8, wherein the second information included in the purchase information indicates a time order of deals made by the seller of the second commodity identified with the first information.

10. (Cancelled)

11. (Previously presented) A purchase information collecting method for collecting a deal between a purchaser and a seller, comprising:

- receiving from a retail seller a first deal identifying information that identifies the retail seller of a first commodity and identifies a time and place at which the first commodity was sold by the retail seller of the first commodity;

- storing the first deal identifying information in a first storing part;

- receiving from a purchaser a second deal identifying information and personal information, where the second deal identifying information was generated by a retail seller when selling a second commodity and then inputted by the purchaser, and where the second deal identifying information identifies the retail seller of the second commodity and identifies a time and place at which the second commodity was sold by the retail seller of the second commodity;

- comparing the second deal identifying information and the first deal identifying information stored in said first storing part using the retail sellers, times and places identified by the first and second deal identifying information;

- extracting sales information including a range of deal numbers of the second deal identifying information between a minimum deal number of the second deal identifying information to a maximum deal number of the second deal identifying information;

- storing, when it is judged that the deal number of the second deal identifying information falls within the range of deal numbers, the second deal identifying information, together with an identifier as invalid information, in a second storing part; and

- storing, when it is judged that the deal number of the second deal identifying information does not fall within the range of deal numbers, the second deal identifying information together with an identifier indicating a validity of the information is not identified.

12. (Previously Presented) A purchase information collecting method according to claim 11, further comprising:

- storing, when an equal comparison is made, the second deal identifying information and the personal information in a second storing part.

13-15. (Cancelled)

16. (Previously presented) A purchase information collecting program causing a

computer to perform processing comprising:

- receiving from a retail seller a first deal identifying information that identifies the retail seller of a first commodity and identifies a time and place at which the first commodity was sold by the retail seller of the first commodity;

- storing the first deal identifying information in a first storing part;

- receiving from a purchaser a second deal identifying information and personal information, where the second deal identifying information was generated by a retail seller when selling a second commodity and was then inputted by the purchaser, and where the second deal identifying information identifies the retail seller of the second commodity and identifies a time and place at which the second commodity was sold by the retail seller of the second commodity;

- comparing the second deal identifying information and the first deal identifying information stored in said first storing part using the retail sellers, times and places identified by the first and second deal identifying information;

- extracting sales information including a range of deal numbers of the second deal identifying information between a minimum deal number of the second deal identifying information to a maximum deal number of the second deal identifying information;

- storing, when it is judged that the deal number of the second deal identifying information falls within the range of deal numbers, the second deal identifying information, together with an identifier as invalid information, in a second storing part; and

- storing, when it is judged that the deal number of the second deal identifying information does not fall within the range of deal numbers, the second deal identifying information together with an identifier indicating a validity of the information is not identified.

17. (Previously presented) A purchase information collecting apparatus for collecting information on a deal between a purchaser and a seller, comprising:

- a unit that receives from a retail seller first deal identifying information that identifies the retail seller of a first commodity and identifies a time and place at which the first commodity was sold by the retail seller of the first commodity;

- a unit that stores the first deal identifying information in a first storing part;

- a unit that receives from a purchaser second deal identifying information and personal information, where the second deal identifying information was generated by a retail seller when selling a second commodity and was then inputted by the purchaser, and where the second deal identifying information identifies the retail seller of the second commodity and identifies a time

and place at which the second commodity was sold by the retail seller of the second commodity;

a unit that compares the second deal identifying information and the first deal identifying information stored in said first storing part using the retail sellers, times and places identified by the first and second deal identifying information;

a unit that extracts sales information including a range of deal numbers of the second deal identifying information between a minimum deal number of the second deal identifying information to a maximum deal number of the second deal identifying information;

a unit that stores, when it is judged that the deal number of the second deal identifying information falls within the range of deal numbers, the second deal identifying information, together with an identifier as invalid information, in a second storing part; and

a unit that stores, when it is judged that the deal number of the second deal identifying information does not fall within the range of deal numbers, the second deal identifying information together with an identifier indicating a validity of the information is not identified.

18-19. (Cancelled)

20. (Previously presented) A method performed by a computing system of a commodity seller to obtain from an end purchaser personal information of the end purchaser, where the end purchaser has purchased, from a retailer, a commodity of the commodity seller at a retailer's point-of-sale (POS) system that transacts retail sales to end purchasers of commodities that were previously purchased by the retailer from commodity sellers, the POS system generating corresponding electronic sale transactions, where an electronic sale transaction has information to allow identification of a time and place of the transaction and a commodity sold to an end purchaser and a commodity seller from who the retailer purchased the commodity sold, the method comprising:

at the computing system of the commodity seller,

electronically receiving the electronic sales transactions corresponding to the commodities that the retailer previously purchased from the commodity seller,

electronically receiving, from an end purchaser's terminal, transaction information and personal information of the end purchaser entered at the terminal, where the transaction information is related to a commodity of the commodity seller that the end purchaser purchased from the retailer with the retailer's POS system and includes a time and place of the corresponding transaction, and

then the computing system of the commodity seller, based on the transaction information received from the end purchaser and a corresponding received electronic sale transaction of the commodity and based on the times and places thereof, storing the end purchaser's personal information and information relating the personal information to information about the commodity purchased by the end purchaser;

extracting sales information containing first information of the purchase information from said first storing part upon the second sales information included in the received purchase information not being stored in the first storing part including a range of deal numbers of second information between a minimum deal number of second information to a maximum deal number of second information;

storing the purchase information as invalid purchase information in the second storing part upon second information of the purchase information having a deal number that is within the range of deal numbers between the minimum deal number of second information and the maximum deal number of second information; and

storing the purchase information as unidentified validity purchase information in the second storing part upon the second information of the purchase information not having a deal number within the range of deal numbers.

21. (Previously presented) A method performed by a retailer's point-of-sale (POS) system on a computing system, the POS system generating corresponding electronic sale transactions, where an electronic sale transaction has information to allow identification of a time and place of the transaction and a commodity sold to an end purchaser and a commodity seller from who a retailer previously purchased the commodity sold, the method comprising:

at the computing system of the commodity seller,

electronically receiving the electronic sales transactions corresponding to the commodities that the retailer previously purchased from the commodity seller,

electronically receiving, from an end purchaser's terminal, transaction information and personal information of the end purchaser entered at the terminal, where the transaction information is related to a commodity of the commodity seller that the end purchaser purchased from the retailer with the retailer's POS system and includes data corresponding transaction;

evaluating the data at the computing system of the commodity seller, based on the transaction information received from the end purchaser and a corresponding received electronic sale transaction of the commodity and based on the data, identifying sales information

that has been already used for verifying the purchase information, storing the end purchaser's personal information and information relating the personal information to information about the commodity purchased by the end purchaser;

extracting sales information containing first information of the purchase information from a first storing part upon the second sales information included in the received purchase information not being stored in the first storing part including a range of deal numbers of second information between a minimum deal number of second information to a maximum deal number of second information;

storing the purchase information as invalid purchase information in a second storing part upon second information of the purchase information having a deal number that is within the range of deal numbers between the minimum deal number of second information and the maximum deal number of second information; and

storing the purchase information as unidentified validity purchase information in the second storing part upon the second information of the purchase information not having a deal number within the range of deal numbers.

IX. EVIDENCE APPENDIX

None

X. RELATED PROCEEDING APPENDIX

None